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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 United States of America,  
10 Plaintiff,  
11 v.  
12 Frank Capri,  
13 Defendant.  
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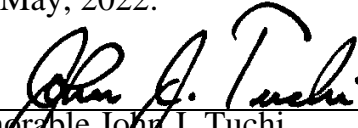
No. CR-20-00096-001-PHX-JJT  
**ORDER**

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16 On February 25, 2022, the Court entered judgment of conviction in this matter  
17 against Defendant Capri (Doc. 258, amended Doc. 290), but continued the issue of  
18 restitution (Doc. 255) to allow the parties to provide law and argument, and then for the  
19 government to provide additional evidence as to its success in contacting and confirming  
20 the existence of victims in this matter (Docs. 297, 304, 306). The Court also held a  
21 supplemental hearing to allow the parties to argue restitution issues on May 5, 2022. (Doc.  
22 303.) Upon completion of briefing and provision of the information ordered by the Court,  
23 it appears the parties are in agreement as to the full restitution amounts listed in redacted  
24 Exhibit A to the government's supplemental restitution memorandum (Doc. 305), except  
25 for victim 22, listed as "MX Retail, LLC," of St. Louis, Missouri, to whom a loss of  
26 \$155,352.00 was attributed as a result of Defendant's Rascal Flatts scheme. Despite the  
27 government's efforts, it was unable to make contact with any representative of MX Retail  
28 to confirm its existence, its successors, if any, or its representatives at this time. The Court  
therefore will not order restitution be paid to that entity, and will order the total restitution

1 amount be reduced by \$155,352.00. It will order all other amounts listed in Doc. 305 for  
2 the other 34 extant victims.

3 **IT IS ORDERED** that judgment of conviction in this matter be amended to include  
4 an Order of restitution against Defendant Capri in the total amount of \$17,857,350.80 (the  
5 full amount of loss suffered by all entities listed in Doc. 305 less the \$155,352.00 of loss  
6 attributed to MX Retail, LLC), with each of the remaining victims 1-21 and 23-35 being  
7 entitled to receive the individual amounts listed for them in Doc. 305. \$5,035,224.08 of  
8 this amount is to be paid jointly and severally with co-Defendant Christian Peter Burka.  
9 Restitution is due immediately. Having assessed Defendant's ability to pay, payments of  
10 the total criminal monetary penalties are due as follows: during imprisonment, Defendant  
11 shall pay not less than \$25 per quarter, with payments made through the Bureau of Prisons  
12 Inmate Financial Responsibility Program. Upon release from imprisonment, Defendant  
13 shall pay not less than \$500 per month for 34 months, to commence 60 days after release.

14 Dated this 20th day of May, 2022.

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17 Honorable John J. Tuchi  
18 United States District Judge  
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